

PATTON BOGGGS
ATTORNEYS AT LAW

RECEIVED
FEC MAIL CENTER

2009 OCT -7 PM 3:58

2550 M Street, NW
Washington, DC 20037 1350
702-457-8000

Facsimile 702 457 8315
www.pattonbogggs.com

October 7, 2009

Benjamin L. Ginsberg
202-457-6405
bginsberg@pattonbogggs.com

Thomasenia P. Duncan, Esquire
General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

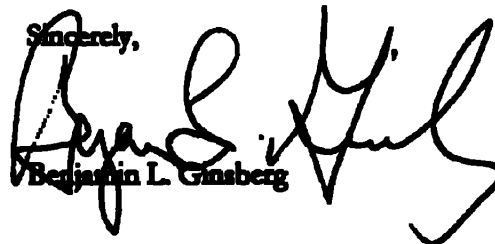
RECEIVED
FEDERAL ELECTION
COMMISSION
2009 OCT -8 AM 10:38
OFFICE OF GENERAL
COUNSEL

Dear Ms. Duncan:

Attached please find the response of the Decidedly Unhappy Mainstream Patriots
Rejecting Evil-Mongering Incompetent Democrats Political Action Committee to MUR 6213.

Please do not hesitate to contact me if you have any questions.

Sincerely,



Benjamin L. Ginsberg

blg/jmt

Attachments

505005

Washington DC | Northern Virginia | New Jersey | New York | Dallas | Denver | Anchorage | Doha | Abu Dhabi

10044271771

BEFORE THE FEDERAL ELECTION COMMISSION

RESPONSE OF THE DECIDEDLY
UNHAPPY MAINSTREAM
PATRIOTS REJECTING EVIL-
MONGERING INCOMPETENT
DEMOCRATS POLITICAL ACTION
COMMITTEE

MUR 6213

RECEIVED
FEDERAL ELECTION
COMMISSION
2009 OCT -8 AM 10:38
OFFICE OF GENERAL
COUNSEL

SUMMARY

Because the Complainant's charges have no basis in fact or law, we request that the Commission dismiss the above-captioned matter promptly. Respondent ("the PAC") has included disclaimers on all public communications as required by law, and its current Statement of Organization on file with the Commission shows its full name as the Decidedly Unhappy Mainstream Patriots Rejecting Evil-mongering Incompetent Democrats Political Action Committee. To the extent the Commission finds any violation, it is purely technical and not worthy of the Commission's limited resources.

FACTS

The PAC was formed as "Dump Reid Political Action Committee" on August 17, 2009. On September 18, 2009, the PAC filed an amended Form 1 to clarify that its full and proper name is the "Decidedly Unhappy Mainstream Patriots Rejecting Evil-mongering Incompetent Democrats Political Action Committee," and that "Dump Reid" is an acronym or abbreviation. *See* Attachment A. As permitted by law, the PAC maintains an ongoing fundraising project known as the "Dump Reid PAC."

At no point has the PAC distributed public communications lacking a disclaimer as required by 2 USC § 441d and 11 CFR § 110.11. The PAC's official website, www.dumpreid.com, includes a

10044271772

proper "paid for by" and "not authorized by" disclaimer. The website www.dumppharry.com is not owned or paid for by the PAC.

LEGAL ARGUMENT

A. The PAC's Website and Printed Materials Contain the Proper Disclaimers.

The PAC's printed mailings and website conform to federal law and Commission regulations with respect to required disclaimers. *See* 11 CFR § 110.11

1. The PAC's Printed Mailer Contains the Proper Disclaimers.

Contrary to the Complainant's allegation, the only mailing the PAC has ever distributed contains the required disclaimers. The printed materials attached to the Complaint are a draft of what was later distributed. Complainant appears to have procured the draft through unknown channels. Tellingly, the Complainant does not assert that it obtained its attachment from any individual who received it as part of a public distribution.

The piece actually distributed contained a full and proper disclaimer:

**PAID FOR BY AND AUTHORIZED BY DUMP REID PAC AND NOT AUTHORIZED BY
ANY CANDIDATE OR CANDIDATE'S COMMITTEE. (WWW.DUMPREID.COM)**

See Attachment B. This disclaimer provides (1) the entity name on file with the Commission at the time of the mailing, *see* 11 CFR § 110.11(c); (2) that the communication is not authorized by a candidate, *see* 11 CFR 110.11(b)(3); and (3) the PAC's website address, *see* 11 CFR § 110.11(b)(3). No other legal requirements apply.

2. The PAC's Website Contains the Proper Disclaimers.

Following is the full and proper disclaimer that appears on www.dumpreid.com, *see*

Attachment C:

10044271773

**PAID FOR BY DUMP REID PAC
AND NOT AUTHORIZED BY ANY CANDIDATE OR CANDIDATE'S COMMITTEE
A SPECIAL PROJECT OF THE DECIDEDLY UNHAPPY MAINSTREAM PATRIOTS
REJECTING EVIL-MONGERING INCOMPETENT DEMOCRATS PAC
WWW.DUMPREID.COM**

This disclaimer provides (1) the entity name, *see* 11 CFR § 110.11(c); (2) that the communication is not authorized by a candidate, *see* 11 CFR 110.11(b)(3); and (3) the PAC's website address and physical address, *see* 11 CFR § 110.11(b)(3). No other legal requirements apply.

Prior to the public release of the website, beginning August 4, 2009, the initial "splash page" contained only a short disclaimer stating that the site was "paid for by" Dump Reid PAC, the name then on file with the FEC. Other pages on the website, including the PAC's contribution collection page, did contain a full and complete disclaimer including the required "authorized by" language pursuant to 11 CFR § 110.11(b)(3). On September 11, 2009, the "splash page" was updated to include a full disclaimer, as the Complainant grudgingly admits. Even during the short interim period, there could be no question concerning the identity of the sponsoring entity—the entity's contact information, name, and contribution information were all included on the website. It was equally clear that the site, which is highly critical of Senator Harry Reid, was not affiliated with his campaign.

To the extent this brief period could possibly be considered a technical violation of its regulations, the Commission should not, as several Commissioners have previously stated, waste its resources chasing such a frivolous Complaint. *See* Ellen L. Weintraub, Steven T. Walther, *et al*, MUR 5651 Statement of Reasons ("An agency generally cannot act against each technical violation of the statute it is charged with enforcing.") (citations and quotations omitted); Steven T. Walther, Ellen L. Weintraub, *et al*, MUR 5595 Statement of Reasons ("Under the circumstances, even if a technical violation of [2 USC 441d] could be proven, the matter does not represent a sufficiently serious

10044271774

matter to devote the resources to pursue.”); Ellen L. Weintraub, *et al*, MUR 5523 Statement of Reasons (dismissing alleged disclaimer enforcement matter as low priority).

With respect to www.dumpharry.com, this website is owned and operated by an individual (Charles Muth), and not by the PAC. The PAC neither controls nor funds www.dumpharry.com. The PAC is certainly not prohibited from linking to the page on its own website, which it does pay for, and the Complainant does not argue otherwise.

B. The PAC's Name Does Not Violate the Law.

“Dump Reid” Political Action Committee filed its initial Form 1 with the Commission on August 17, 2009. That filing was accepted without any notification from the Reports Analysis Division or any other Division of the Commission that the PAC's name was somehow contrary to Commission regulations. On September 18, 2009, only *thirty days* later, the PAC filed an amended Form 1 to clarify that its full and proper name is the “Decidedly Unhappy Mainstream Patriots Rejecting Evil-mongering Incompetent Democrats Political Action Committee.” *See* Attachment A. The PAC maintains an ongoing fundraising project known as the “Dump Reid PAC.”

1. The PAC is Permitted to Maintain a Fundraising Project Known as “Dump Reid” PAC.

The law permits a PAC to maintain an ongoing fundraising project that includes the proper name of a federal officeholder. *See* 11 CFR § 102.14(b)(3). As the Commission made clear in Advisory Opinion 1995-9 (NewtWatch):

In contrast to the committee name restrictions, a candidate's name may be used in the title of a special project operated by an unauthorized committee if the project title clearly and unambiguously shows opposition to the named candidate. 11 CFR 102.14(b)(3). The operation of a World Wide Web site would be considered a project of the Committee. Here, the Commission notes that under the regulations, phrases showing clear and unambiguous opposition to a candidate are not limited to specific words such as “defeat” or “oppose.” The use of the term “watch,” when coupled with a candidate's name, conveys clear and unambiguous opposition to the candidate being watched. “NewtWatch” connotes your view that Speaker Gingrich

needs to be kept under careful and constant close scrutiny, and your view that users need to be on the alert or to be on their guard with respect to Speaker Gingrich. Accordingly, the Act and Commission regulations do not prohibit the Committee from using the name "NewtWatch" as a project name.

AO 1995-9 at 6. Clearly, the name "Dump Reid" conveys "clear and unambiguous opposition to a candidate."

2. Even During the Short Period in Which the PAC's Form 1 Did Not Include Its Full Name, There is No Violation.

Even during the short period in which the PAC's Form 1 did not include its full name, there is no genuine violation.

First, the touchstone of 2 USC § 432(e)(4) (barring a political committee which is not an authorized committee from including the name of any candidate in its name) is the potential for voter confusion. As the D.C. Circuit Court of Appeals has stated, "subsection (e)(4) is directed solely at disclosure of whether a political committee that solicits funds from the public is part of the authorized campaign machinery of a candidate . . . [it requires entities to] clarify[] for readers and potential contributors the candidate authorization status of the political committees who sponsor advertisements and fund solicitations." *Common Cause v. Federal Election Commission*, 842 F.2d 436, 442 (D.C. Cir. 1988). The Complainant has not argued, and could not possibly argue, that citizens were led to believe that any "Dump Reid" communications were sponsored or authorized by Senator Harry Reid.

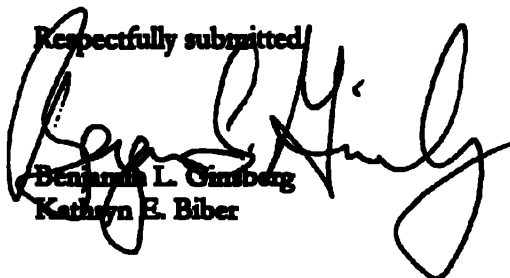
Second, even to the extent the Commission considers the name "Dump Reid" confusing enough to sanction under § 432(e)(4), the name appeared on disclaimers and on the PAC's Form 1 for a mere *thirty days*. Such a minor infraction hardly warrants the Commission's time and resources, especially given the Commission's acceptance of the initial Form 1. *See supra* Section A.2 (quoting *Statements of Reasons*).

CONCLUSION

For the aforementioned reasons, we respectfully request that the Complaint be dismissed.

Dated: October 7, 2009

Respectfully submitted/

A large, stylized handwritten signature in black ink, appearing to read "Benjamin L. Ginsberg".

Benjamin L. Ginsberg
Kathryn E. Biber

10044271777

RECEIVED
FEC MAIL CENTER
2009 SEP 18 PM 2:41

FEC
FORM 1

STATEMENT OF
ORGANIZATION

(See instructions)

Other name

1. NAME OF
COMMITTEE (in full)



(Check if name
is changed)

Example: If typing, type
over the line

12FEC015

Decidedly Unhappy Mainstream Patriots Rejecting Hyll-mongering Incompetent
Democrats Political Action Committee (DUMPKID PAC)

ADDRESS (number and street)

P.O. Box 77472



(Check if address
is changed)

Washington

DC

20013

7476

CITY ▲

STATE ▲

ZIP CODE ▲

COMMITTEE'S E-MAIL ADDRESS (Please provide only one e-mail address)



(Check if address
is changed)

dumpkid@earthlink.net

COMMITTEE'S WEB PAGE ADDRESS (URL)



(Check if address
is changed)

www.dumpkid.com

2. DATE

09

14

2009

3. FEC IDENTIFICATION NUMBER

C 000-105228

4. IS THIS STATEMENT



NEW (N)

OR



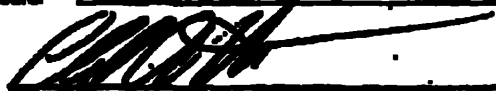
AMENDED (A)

I certify that I have examined this Statement and to the best of my knowledge and belief it is true, correct and complete

Type or Print Name of Treasurer

Charles Smith

Signature of Treasurer



Date

09

14

2009

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Statement to the penalties of 18 U.S.C. § 1001.

ANY CHANGE IN INFORMATION SHOULD BE REPORTED WITHIN 10 DAYS

Office
Use
Only

For further information contact:
Federal Election Commission
Toll Free 800-424-9595
Local 202-694-1100

FEC FORM 1
(Revised 05/2008)

10044271778

29030161290

5. TYPE OF COMMITTEE (Check One)**Candidate Committee:**

- (a) ☐ This committee is a principal campaign committee. (Complete the candidate information below.)
- (b) ☐ This committee is an authorized committee, and is NOT a principal campaign committee. (Complete the candidate information below.)

Name of
CandidateCandidate
Party AffiliationOffice
Sought

Name

Senate

President

State
District

- (c) ☐ This committee supports/opposes only one candidate, and is NOT an authorized committee.

Name of
Candidate**Party Committee:**

- (d) ☐ This committee is a ☐ (National, State (or substate) committee of the ☐ (Democratic, Republican, etc.) Party.

Political Action Committee (PAC):

- (e) ☐ This committee is a separate segregated fund. (Identify connected organization on line 6.) Its connected organization is a:
- ☐ Corporation ☐ Corporation w/o Capital Stock ☐ Labor Organization
- ☐ Membership Organization ☐ Trade Association ☐ Cooperative
- ☐ In addition, this committee is a Lobbyist/Registered PAC.
- (f) ☒ This committee supports/opposes more than one Federal candidate, and is NOT a separate segregated fund or party committee. (i.e., nonconnected committee)
- ☐ In addition, this committee is a Lobbyist/Registered PAC.
- ☐ In addition, this committee is a Leadership PAC. (Identify sponsor on line 6.)

Joint Fundraising Representative:

- (g) ☐ This committee collects contributions, pays fundraising expenses and disburses net proceeds for two or more political committees/organizations, at least one of which is an individual committee of a federal candidate.
- (h) ☐ This committee collects contributions, pays fundraising expenses and disburses net proceeds for two or more political committees/organizations, none of which is an authorized committee of a federal candidate.

Committees Participating in Joint Fundraising

- | | | |
|-------------------------|---------------|----------------------|
| 1. <input type="text"/> | FEC ID number | <input type="text"/> |
| 2. <input type="text"/> | FEC ID number | <input type="text"/> |
| 3. <input type="text"/> | FEC ID number | <input type="text"/> |
| 4. <input type="text"/> | FEC ID number | <input type="text"/> |

10044271779

29030161291

Write or Type Committee Name

Decidedly Unhappy Mainstream Patriots Rejecting Evil-mongering Incompetent Democrats Political Action Committee (DUMPRED PAC)

6. Name of Any Connected Organization, Affiliated Committee, Joint Fundraising Representative, or Leadership PAC Sponsor

NONE

Mailing Address

CITY A

STATE A

ZIP CODE A

Relationship:



Connected Organization



Affiliated Committee



Joint Fundraising Representative



Leadership PAC Sponsor

7. Custodian of Records: Identify by name, address, (phone number -- optional), and position of the person in possession of Committee books and records.

Full Name

PAC Deliverables LLC

Mailing Address

6182 Owen Hill Road

Suite 601

Owen Hill

MD

20748

Title or Position

CITY A

STATE A

ZIP CODE A

Custodian of Records

Telephone number 301 - 638 - 0510

8. Treasurer: List the name and address (phone number -- optional) of the treasurer of the committee; and the name and address of any designated agent (e.g., assistant treasurer).

Full Name

of Treasurer

Charles Bluth

Mailing Address

DUMP RED PAC

767 Benedict Drive

Las Vegas

NV

89118

Title or Position

CITY A

STATE A

ZIP CODE A

Treasurer

Telephone number 702 - 691 - 8801

10044271780

20050161202

Full Name of
Designated
Agent

Wanda S. Williams

Mailing Address

9122 Owen Hill Road

Owen Hill

MD

20745 -

Title or Position

CITY

STATE

ZIP CODE

Assistant Treasurer

Telephone number

301

530

0010

8. Banks or Other Depositories: List all banks or other depositories in which the committee deposits funds, holds accounts, rents safety deposit boxes or maintains funds.
Name of Bank, Depository, etc.

Service 1st Bank

Mailing Address

8805 S. Eastern

Suite 100

Las Vegas

NV

89123 -

CITY

STATE

ZIP CODE

Name of Bank, Depository, etc.

Bank of America

Mailing Address

6811 Owen Hill Road

Owen Hill

MD

20745 -

CITY


STATE

ZIP CODE

10044271781

20030161203

Federal Election Commission
ENVELOPE REPLACEMENT PAGE FOR INCOMING DOCUMENTS
The FEC added this page to the end of this filing to indicate how it was received.

<input type="checkbox"/> Hand Delivered	Date of Receipt
<input type="checkbox"/> USPS First Class Mail	Postmarked
<input type="checkbox"/> USPS Registered/Certified	Postmarked (R/C)
<input type="checkbox"/> USPS Priority Mail	Postmarked
Delivery Confirmation™ or Signature Confirmation™ Label <input type="checkbox"/>	
<input type="checkbox"/> USPS Express Mail	Postmarked
<input type="checkbox"/> Postmark Illegible	
<input type="checkbox"/> No Postmark	
<input checked="" type="checkbox"/> Overnight Delivery Service (Specify): UPS	Shipping Date 9/16/09
Next Business Day Delivery <input type="checkbox"/>	
<input type="checkbox"/> Received from House Records & Registration Office	Date of Receipt
<input type="checkbox"/> Received from Senate Public Records Office	Date of Receipt
<input type="checkbox"/> Received from Electronic Filing Office	Date of Receipt
<input type="checkbox"/> Other (Specify):	Date of Receipt or Postmarked
	9/18/09
PREPARER	DATE PREPARED

(3/2005)

10044271782

29030161294

It's time to
do it again!
It's time to

**DUMP
RE**

In 2004,
conservatives
from across the
country banded
together and
sent Tom Daschle,
the Democrat
leader of the
Senate, packing.

10044271783

HELP **DUMP REID**. SEND IN YOUR DONATION TODAY.



www.

.com

10044271784

10044271785

PLACE
POSTAGE
STAMP
HERE

**DUMP
REID**
POST OFFICE BOX 77472
WASHINGTON, DC 20013-7472

YES, I WANT
TO HELP...

**DUMP
REID**

Please make checks payable to:
DUMP REID PAC

Personal checks only, please.

Corporate contributions are prohibited.

Donations are not tax deductible for federal income tax purposes. Corporations, labor unions, foreign nationals or federal contractors may not contribute. All contributions are voluntary and you may refuse to contribute without reprisal. Contributions made to the DUMP REID PAC directly will be spent for PAC activities and programs as the PAC determines within its sole discretion. Contributions made directly to the PAC will not be earmarked for any candidate.

Enclosed is my contribution in the amount of:

- ☐ \$25 ☐ \$50 ☐ \$100
☐ \$250 ☐ \$1,000 ☐ \$2,300
☐ Other \$ _____

Or donate by credit card:

☐ American Express ☐ Visa ☐ Mastercard

Card Number _____

Expiration Date _____ Security Code _____

NAME

ADDRESS

CITY

STATE

ZIP

PHONE

EMAIL

EMPLOYER

OCCUPATION

Federal Election Law requires us to request this information: If you provide this information now, you will save the PAC substantial administrative costs. Federal Election Law requires us to use our best efforts to obtain and report the name, mailing address, occupation and name of employer for each individual whose contributions to candidates or the DUMP REID PAC exceeds \$250 in a calendar year.

**PAID FOR BY AND AUTHORIZED BY DUMP REID PAC AND NOT AUTHORIZED
BY ANY CANDIDATE OR CANDIDATE'S COMMITTEE. (WWW.DUMPREID.COM)**

10044271786

ATTACHMENT C

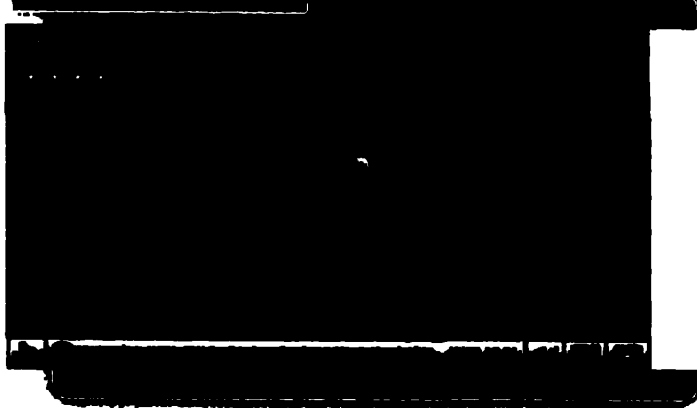


DUMP REID

Change we REALLY can believe in!

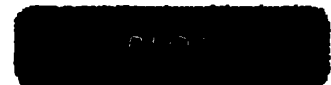


LATEST VIDEO



GET EMAIL UPDATES

First Name
Last Name
Email Address
Zip Code
Phone No.
<input type="button" value="Submit"/>



PAID FOR BY DUMP REID PAC
AND NOT AUTHORIZED BY ANY CANDIDATE OR CANDIDATE'S COMMITTEE
A SPECIAL PROJECT OF THE DECIDEDLY UNHAPPY MAINSTREAM PATRIOTS
REJECTING EVIL-MONGERING INCOMPETENT DEMOCRATS PAC
WWW.DUMPREID.COM

10044271787